

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

U.S.
EAST

UNITED STATES OF AMERICA,)
Plaintiff,)

v.)

TRACEY PETERS,)
Defendant.)

'08 AUG 27 P1:23

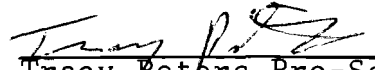
No. 05 CR 253

Judge William C. Griesbach

NOTICE OF FILING / MOTION

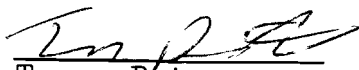
TO: AUSA Timothy W. Funnell
Office of the U.S. Attorney
517 E. Wisconsin Avenue, Suite 530
United States Courthouse and
FEDERAL BLDG.
Milwaukee, WI 53202

PLEASE TAKE NOTICE that on August 22, 2008, I filed with Clerk of the District Court, a pro-se Section 2255 motion with supporting memorandum of law, a copy of which is hereby served upon you.


Tracy Peters, Pro-Se
00562-089
USP TERRE HAUTE
P.O. Box 33
Terre Haute, IN
47808

PROOF OF SERVICE

TRACY PETERS, Movant, pro-se, certifies that he served the above on counsel above, by U.S. Mails, on August 22, 2008.


Tracy Peters
Movant-Pro-Se

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

'08 AUG 27 P1:23

UNITED STATES OF AMERICA,

Plaintiff,

v.

Docket No. _____
(to be supplied by Clerk)

TRACY PETERS

Full Name (under which you were convicted)

00562-089

Prisoner Number

USP TERRE HAUTE, P.O. Box 33, Terre Haute, IN
Place of Confinement, 47808

Movant.

MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT A SENTENCE
BY A PERSON IN FEDERAL CUSTODY

I. SUBJECT OF THIS PETITION

A. Name and location of the court that entered the judgment of conviction that you are challenging

UNITED STATES DISTRICT COURT, EASTERN DISTRICT OF WISCONSIN

P.O. Box ~~22370~~ 22490

Greenbay, WI 54305-2370

B. Criminal docket or case number 05 CR 253

C. Date of the judgment of conviction 4/20/06

D. Date of sentencing July 19, 2006

E. Length of sentence 324 months

F. Nature of crime (all counts) 18 U.S.C. §§ 1111-1153

H. What was your plea? (Check one)

☒ Not guilty

☐ Guilty

☐ Insanity plea

☐ Nolo contendere (no contest)

If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to?

N/A

I. If you went to trial, what kind of trial did you have? (Check one)

☒ Jury

☐ Judge only

J. Did you testify at a pretrial hearing, trial, or a post-trial hearing?

☐ Yes

☒ No

If yes, state the type(s) of hearing or proceeding

N/A

G. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time?

☐ Yes

☒ No.

SUBJECT OF THIS PETITION - continued

H. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging?

☐ Yes ☒ No

II. DIRECT APPEAL OF CONVICTION

A. Did you appeal the judgment of conviction?

☒ Yes ☐ No

If yes, attach the decision(s) that resolved your appeal and answer the following questions:

1. Name of court of appeals U.S.C.A. SEVENTH CIRCUIT

2. Date of filing appeal 12/13/06

3. Grounds raised Psychological Impeachment of Destiney Lyons

4. Result AFFIRMED

5. Date 6/07/07

B. Did you file a petition for certiorari in the United States Supreme Court?

☐ Yes ☒ No

If yes, attach the decision(s) that resolved your petition for certiorari and answer the following questions:

1. Date of filing petition for certiorari _____

2. Grounds raised _____

3. Result _____

4. Date _____

III. POST-CONVICTION RELIEF OTHER THAN DIRECT APPEAL

A. Other than the appeals listed above in Section II, have you previously filed any other federal petitions, applications, or motions concerning **the** federal judgment that you are now challenging?

☐ Yes ☒ No

If yes, attach the decision(s) that resolved your application for federal post-conviction relief and answer the following questions:

1. Name of court _____

2. Docket or case number _____

3. Date of filing _____

4. Type of petition, application, or motion filed _____

5. Grounds raised _____

6. Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☐ No

7. Result _____

8. Date _____

9. Did you appeal your first federal petition, application, or motion to a federal appellate court?

☐ Yes ☐ No

10. If you did not appeal, explain why not:

B. If you filed a second federal petition, application, or motion, attach the decision and answer the following questions:

POST-CONVICTION RELIEF OTHER THAN APPEAL - continued

1. Name of court _____
2. Docket or case number _____
3. Date of filing _____
4. Type of petition, application, or motion filed _____
5. Grounds raised _____

6. Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☐ No

7. Result _____

8. Date _____

9. Did you appeal your second petition, application, or motion to a federal appellate court?

☐ Yes ☐ No

10. If you did not appeal, explain why not:

- C. If you filed a third federal petition, application, or motion, attach the decision and answer the following questions:

1. Name of court _____
2. Docket or case number _____
3. Date of filing _____
4. Type of petition, application or motion filed _____

POST-CONVICTION RELIEF OTHER THAN APPEAL - *continued*

5. Grounds raised _____

6. Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes

☐ No

7. Result _____

8. Date _____

9. Did you appeal your third petition, application, or motion to a federal appellate court?

☐ Yes

☐ No

10. If you did not appeal, explain why not:

IV. GROUNDS FOR RELIEF

For this motion, state every ground supporting your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. If you fail to do so, you may be prevented from presenting additional grounds at a later date.

Attach additional pages if you have more than four grounds. State the facts supporting each ground.

Ground One INEFFECTIVE ASSISTANCE OF COUNSEL/LACK OF FEDERAL JURISDICTION
OVER GEOGRAPHICAL LOCATION WHERE OFFENSE OCCURRED.

Supporting **FACTS** (*Briefly summarize the facts without citing cases or law.*)

Trial counsel stipulated to the status of location where offense occurred
when that area has not been determined as "Indian country" as defined

GROUND FOR RELIEF - continued

by Congress and explained by the U.S. Supreme Court. This type of issue 'geographical jurisdiction' cannot be legally stipulated to because the State of Wisconsin gives assistance to the residents who reside in that local. Because this locality is not under Federal Supervision or set aside, as defined by statute, the United States District Court lacked subject-matter jurisdiction to sit in judgment over the offense occurring in State criminal jurisdiction.

* SEE ATTACHED MEMORANDUM OF LAW

Ground Two N/A

Supporting **FACTS** (Briefly summarize the facts without citing cases or law.)

GROUND FOR RELIEF - continued

Ground Three

Supporting **FACTS** *(Briefly summarize the facts without citing cases or law.)*

Ground Four N/A

Supporting **FACTS** *(Briefly summarize the facts without citing cases or law.)*

VI. REQUEST FOR RELIEF

State exactly what you want the court to do for you.

To order an evidentiary hearing to determine the status of 'MIDDLE VILLAGE' as to whether it meets the standards set forth declaring 'Indian county' or not. If it is found to be outside the 'geographical jurisdiction' of the UNITED STATES, for the Court to dismiss the indictment with prejudice for lack of subject-matter jurisdiction.

VII. DECLARATION UNDER PENALTY OF PERJURY

I, the undersigned, hereby declare under penalty of perjury that the foregoing information is true and correct.

Signed this 27 day of August, 20 09.

Tracy Peters
Signature of Movant
Tracy Peters

N/A
(Signature of lawyer, if any)

If you are signing the motion and are not the movant, state your relationship to the movant and explain why the movant is not signing this motion.

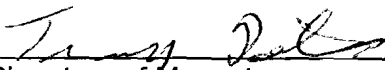
N/A

VIII. CERTIFICATE OF INMATE MAILING - Optional

If you deposit your motion under 28 U.S.C. § 2255 to vacate, set aside, or correct your sentence in your prison/institutional/jail mailing system and attach first-class postage pre-paid, and complete and sign this statement, you will establish the filing date as the date of deposit in that mailing system.

I, the undersigned, hereby declare under penalty of perjury that I placed this motion to vacate, set aside or correct federal sentence under 28 U.S.C. § 2255 in the prison/institutional/jail mailing system with a prepaid, first-class postage on 8/22/08
(month, day, year)

Signed this 22 day of August, 2008.



Signature of Movant

Tracy Peters

00562-089

USP TERRE HAUTE

P.O. Box 33

Terre Haute, IN 47808